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DAE  
TW

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV809820279US, in an envelope addressed to: MS Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Date: March 30, 2007

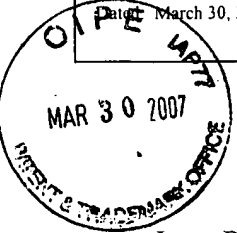
Signature:

(Marco Jimenez)

**Express Mail Label No.: EV809820279US**

**Docket No.: 393032025300**

**(PATENT)**



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Tetsuo Nishimoto, et al.

Serial No.: 09/864,670

Filing Date: May 24, 2001

For: APPARATUS AND METHOD FOR  
CONVERTING AND DELIVERING MUSICAL  
CONTENT OVER A COMMUNICATION  
NETWORK OR OTHER INFORMATION  
COMMUNICATION MEDIA

Examiner: Marlon T. Fletcher

Group Art Unit: 2837

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT  
PURSUANT TO 37 C.F.R. §§ 1.181 and 1.8(b)**

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

**INTRODUCTION**

On March 19, 2007, the Patent Office mailed a Notice of Abandonment stating the present application was abandoned. The Notice stated the Applicants had failed to timely pay the issue fee and publication fee within three months of the mailing date of the Notice of Allowance. The Notice of Allowance was mailed on November 20, 2006.

Applicants respectfully submit that they responded to the Notice of Allowance in a timely manner by First Class Mail on January 19, 2007 and that both of these fees were timely paid. Therefore, Applicants hereby petition the Commissioner to withdraw the holding of abandonment.

LA-910657

### **BACKGROUND**

The present application was filed on May 24, 2001. The application was duly prosecuted and a Notice of Allowance was mailed on November 20, 2006. Part B (Fee Transmittal) of the Notice of Allowance indicated an issue fee in the amount of \$1,400 and a publication fee of \$300. Applicants timely submitted the Fee Transmittal by first class mail on January 19, 2007 and therein authorized the Patent Office to charge the required fees to Deposit Account No. 03-1952. A copy of the transmitted Fee Transmittal is attached as Exhibit A to the accompanying statement of Ms. Melody Y. Green.

On March 19, 2007, the Patent Office mailed a Notice of Abandonment for failure to pay the issue fee and the publication within three months of the mailing date of Notice of Allowance.

### **REQUEST TO WITHDRAW HOLDING OF ABANDONMENT**

As explained above and shown in the accompanying Exhibit A, Applicants timely submitted the Fee Transmittal. The Fee Transmittal set a deadline of February 20, 2007, and Applicants submitted the transmittal on January 19, 2007 via first class mail as indicated by the signed certificate of mailing. Applicants authorized in the Fee Transmittal the payment of the required fees relating to the Notice of Allowance.

The holding of abandonment by the Patent Office is apparently a result of the Patent Office not having evidence of receiving the Fee Transmittal. To that end, Applicants respectfully request that the transmission of the Fee Transmittal on January 19, 2007 be considered pursuant to 37 C.F.R. § 1.8(b).

The requirement of § 1.8(b)(1) is met, because Applicants are submitting this petition in a timely manner after receipt of the Notice of Abandonment. When Applicants submitted the Fee Transmittal, there was no reason to believe that the application would be abandoned two months later. Only after the Patent Office indicated that the application had become abandoned did the Applicants realize that the Patent Office may not have evidence of receiving the Fee Transmittal.

The requirement of § 1.8(b)(2) is satisfied in that the accompanying statement of Ms. Green attaches, as Exhibit A, a copy of the submitted Fee Transmittal with the signed certificate of mailing.

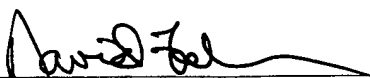
The requirement of § 1.8(b)(3) is met by the accompanying statement of Ms. Green. Ms. Green signed the certificate of mailing on January 19, 2007. She provided the Fee Transmittal with the signed certificate and accompanying return receipt postcard to the mail department of her employment (the law firm of Morrison & Foerster). The department mailed the Fee Transmittal and Postcard on January 19, 2007.

In view of the above showing, Applicants respectfully submit that the Fee Transmittal was submitted in a timely fashion on January 19, 2007. Thus, the application is not in fact abandoned, and Applicants respectfully request that the Patent Office withdraw the holding of abandonment.

It is not believed that any fees are due with this Petition. In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorize the Director to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 393032025300.

Dated: March 30, 2007

Respectfully submitted,

By 

David L. Fehrman

Registration No.: 28,600

MORRISON & FOERSTER LLP  
555 West Fifth Street, Suite 3500  
Los Angeles, California 90013  
(213) 892-5601

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Dated: March 30, 2007

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(Marco Jimenez)

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NETWORK OR OTHER INFORMATION  
COMMUNICATION MEDIA

Examiner: Marlon T. Fletcher

Group Art Unit: 2837

**STATEMENT ATTESTING TO TIMELY MAILING  
PURSUANT TO 37 CFR § 1.8 (b)**

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

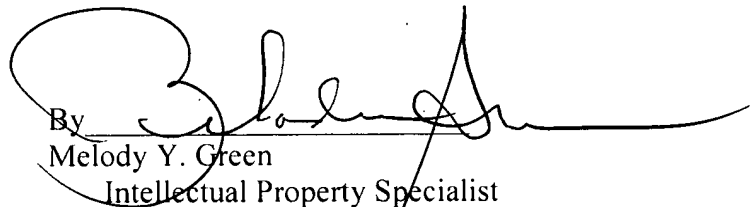
1. I, Melody Y. Green, am an Intellectual Property Specialist at Morrison & Foerster LLP.
2. I am responsible for handling the payment of the issue fee and publication fee of the present application.
3. On November 20, 2006, a Notice of Allowance was mailed. Part B (Fee Transmittal) of the Notice of Allowance indicated an issue fee of \$1400 and a publication fee of \$300. The Fee Transmittal was signed by an attorney of record and authorized payment of any fees. I then

LA-910687

submitted the Fee Transmittal by first class mail to the Patent Office on January 19, 2007 along with a signed certificate of mailing. A copy of the Fee Transmittal and the signed certificate of mailing is attached as Exhibit A.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: March 30, 2007

By   
Melody Y. Green  
Intellectual Property Specialist

MORRISON & FOERSTER LLP  
555 West Fifth Street, Suite 3500  
Los Angeles, California 90013  
(213) 892-5664

**PART B - FEE(S) TRANSMITTAL**

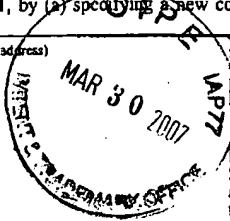
Complete and send this form, together with applicable fee(s), to: **Mail** Mail Stop ISSUE FEE  
**Commissioner for Patents**  
**P.O. Box 1450**  
**Alexandria, Virginia 22313-1450**  
**or Fax (571)-273-2885**

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

25224 7590 11/20/2006

**MORRISON & FOERSTER, LLP**  
**555 WEST FIFTH STREET**  
**SUITE 3500**  
**LOS ANGELES, CA 90013-1024**



Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

**Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

<b>Melody Y. Green</b>	(Depositor's name)
<i>[Signature]</i>	(Signature)
<b>January 19, 2007</b>	(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,670	05/24/2001	Tetsuo Nishimoto	393032025300	3831

TITLE OF INVENTION: APPARATUS AND METHOD FOR CONVERTING AND DELIVERING MUSICAL CONTENT OVER A COMMUNICATION NETWORK OR OTHER INFORMATION COMMUNICATION MEDIA

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1400	\$300	\$0	\$1700	02/20/2007

EXAMINER	ART UNIT	CLASS-SUBCLASS
FLETCHER, MARLON T	2837	084-609000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list
- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
- (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 **MORRISON & FOERSTER LLP**

2 \_\_\_\_\_

3 \_\_\_\_\_

**3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)**

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

**YAMAHA CORPORATION**

**Hamamatsu-shi, JAPAN**

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☒ Corporation or other private group entity ☐ Government

**4a. The following fee(s) are submitted:**

- ☒ Issue Fee
- ☒ Publication Fee (No small entity discount permitted)
- ☒ Advance Order - # of Copies 10

**4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)**

- ☐ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☒ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number 03-1952 (enclose an extra copy of this form).

**5. Change in Entity Status (from status indicated above)**

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature

*[Signature]*  
**DAVID L. FEHRMAN**

Date **January 19, 2007**

Typed or printed name

Registration No. **28,600**

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.